IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

MFA.No. 60 of 2003()

IC.92/2000 of ESI COURT, PALAKKAD
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APPELLANT: OPPOSITE PARTY:

THE REGIONAL DIRECTOR,
EMPLOYEES' STATE INSURANCE COROPORATION,
THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENTS: APPLILCANT:

M/S. ROTO PRINT, IV/280 A-1. D.P.,
PERINGANDOOR, ATHANI, THRISSUR.

BY ADV. SRI.P.SANKARANKUTTY NAIR
SRI.M.B.PRAJITH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 60 OF 2003

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Dated this the 7th day of March, 2007

J U D G M E N T

Employees State Insurance Corporation, Thrissur challenges the order passed by the Employees' Insurance Court, Palakkad accepting the contention of the respondent that the establishment of the respondent is not liable to pay contribution. Learned counsel for the appellant submitted that the establishment of the respondent had engaged 10 or more workers and hence liable to pay contribution. In this regard, appellant relies on Exhibit B4 report submitted by the Inspector of Insurance. In his report the Inspector had stated that as on 5.8.1999 there were 10 workers and in addition to that salary was given to other employees also. The Inspector has not verified the number of workers employed by the respondent at the time of inspection though he stated that he had interviewed 10 persons whose name had been stated in the list. So the Insurance Court did not accept that report. Another report, Exhibit B5, filed by another Inspector shows that from 4/1999 to

9/2000 at no point of time respondent had employed more than 9 persons. Much reliance is placed on Exhibit A5. It is true that during the month of November names of 10 persons were written in the Muster Roll. Records also show that one Mr.Prasad joined as a worker on 16.11.1998 and he was absent from 26.11.1998. It is seen that one Smt.Bindu was engaged on 27th, 28th and 30th November. So the material produced by the respondent also shows that at any point of time there were 10 workers in his establishment. So the finding of the Insurance Court that the respondent is not entitled to pay contribution is correct. It is a finding of fact which does not call for any interference and it is confirmed.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. 60 OF 2003

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J U G M E N T

7TH MARCH, 2007